

## APPENDIX B

### **PREPARATION and FILING INSTRUCTIONS**

#### **Notice of Intent/Abbreviated Notice of Intent**

Notify the Lexington Conservation Office when you intend to file for a permit to do work under the State of Massachusetts Wetland Protection Act (hereafter **ACT**) and/or the Town of Lexington Wetland Protection Code (hereafter **BY-LAW**) for a pre-filing consultation and hearing date. The applicant will be assigned a date, time and location for the public hearing so this information may be incorporated into the abutters' notification, which must be mailed the day of and before filing at the Conservation Office in accordance with the ACT.

#### **I. FILING AND PUBLIC HEARING PROCEDURES**

**A. Forms to File:**

Review the ACT and its Regulations and the BY-LAW and its Rules to determine which form should be used for the proposed project: **Notice of Intent WPA Form 3** or **Abbreviated Notice of Intent WPA Form 4**. Since the ACT and the BY-LAW are administered concurrently by the Commission, it is necessary to complete only one applicable form when filing under both laws.

See Appendix B-1 for checklist of material to file and Appendix B-2 for the number of copies to file.

**B. Additional Material:**

After review by the Conservation staff, the Town Engineer and other Town boards, additional material may be requested prior to the public meeting. If there is time, it may be incorporated into the plan and information. Additional information may also be requested by the Commissioners as a result of the presentation at the public hearing. (Omission of information at any stage may require that the public hearing be continued pending receipt of the information.)

**C. Public Hearing:** A public hearing is held for each filing. At the hearing, the information is presented to the Commission and the public by the applicant and/or representative/s. The plans for the presentation should be colored so pertinent features are clearly visible to the Commission and the public. As required by law, notice of this hearing is given as follows:

1. Notification to Abutters by Applicant - As required in the ACT, notification of the public hearing must be mailed, at the expense of the applicant, to all abutters within 100 feet of the property the day of and prior to filing the NOI. A certified abutter's list must be obtained from the Town Assessor's Office. Please see "Appendix B-4" for the format to be used for this notification. A copy of this notification and the certified abutter's list, and a signed 'Affidavit of Service' (Appendix B-5) must be submitted as part of your Notice of Intent package.

2. Legal Notice - Notice of the date, time and place of the public meeting will be placed in a local newspaper by the Conservation Office at the expense of the applicant. Applicant shall sign and submit the Legal Notice Charge Authorization. (See APPENDIX B-6)

**D. Schedule Planning:**

1. Public Hearing - The Commission meetings are held every other Tuesday throughout the year. Check with the Conservation Office for the meeting sequence. The Notice of Intent must be filed 20 days before the scheduled meeting for the project.

2. Site Visit - The Commission generally visits the site for orientation the weekend before the public hearing. If the applicant or representative wishes to attend, please call the Conservation Office for the time of the site visit.

**E. Filing Fees:** See Appendix B-3 for fee schedules.

**II. RESPONSIBILITY OF THE APPLICANT**

**A. Preparation of Material:** See Appendix B-1 for Checklist.

**B. Notification of Abutters:** See Public Hearing C.1.

**C. Site Work Prior to Filing and the Public Hearing**

a. Flagged stakes shall be installed at the project site for the Commission's site visit to mark the following locations:

- 1) the wetland boundary with the flags numbered corresponding to the numbers shown on the plan;
- 2) the wetland boundary transect with test plots identified, a minimum of one wetland plot and one upland plot, and
- 3) the corners of proposed buildings and drainage systems and delineation of roadways nearest the protected resource areas, with the specific location noted on the flags to correspond to the plan.

**D. MA National Heritage & Endangered Species Program**

If applicable, submit a copy of the Notice of Intent. (See \*NOTE below) A copy of the current Estimated Habitats of Rare Wetlands Wildlife & Certified Vernal Pools Map for Lexington is available in the Conservation Office for review.

**E. US Army Corp of Engineers Permit**

If applicable, submit a copy of the Notice of Intent. (See \*NOTE below).

**F. 401 Water Quality Certification**

Required on notification from DEP.

**G. DEP Division of Waterway M.G.L. 91 License**

Required on notification from DEP.

**\*NOTE:** Although the instructions detailed in this document generally incorporate all of those included in the ACT's Regulations, "General Instructions for Completing Notice of Intent (310 CMR 10.99), that document should also be reviewed. Specific detail for items D. through G. are included in that form.

**III. THE DECISION**

The Commission shall make a decision on the Notice of Intent based on information and material filed, the site visit and information presented at the meeting. If more information is needed, the meeting may be continued by the applicant in compliance with applicable State and Town laws. The decision shall be issued within 21 days of the closing of the public hearing.

12/96; rev. 7/04; rev. 1/05

## **APPENDIX B-1**

### **CHECKLIST INFORMATION TO BE FILED**

**I. Notice of Intent or Abbreviated Notice of Intent** with the following support material:

- A. 8-1/2 x 11" USGS Quad Map noting project locus.
- B. 8-1/2 x 11" Lexington Topographic Map of locus, scale: 1"=100' or 200' (available from the Town Engineer or Conservation Office)
- C. 8-1/2 x 11" Flood Plain Map of locus.
- D. 8-1/2 x 11" Nat. Heritage and Endangered Species Map of locus
- E. Project Narrative - to provide details to clarify the proposal and to show how the proposal complies with performance standards.

**II. Plan/s** (Required Format and Information)

**A. Plan/s**

- 1. Existing Topographic Plan prepared by a professional land surveyor using instrument survey based on NGVD benchmarks showing existing conditions.
- 2. Site Plan prepared by a Professional Land Surveyor and Professional Civil Engineer (if drainage and other civil details applicable), and Registered Landscape Architect (if landscaping is applicable), showing details of proposed project.
- 3. If more than two sheets required in the plan set to detail the proposed work, provide cover sheet showing a composite of all work proposed and an index of the sheets.

**B. Format and Information**

- 1. Scale - no smaller than 1" = 50'.
- 2. Sheet Size – 11" X 17" to 24" X 36". Larger sheets may be used for complex projects.
- 3. Title Block - located in the right-hand corner or on the right side, shall incorporate Plan Title, name and address of the project; name of the property owner or applicant; name, address and imprint of the professional consultant responsible for the preparation of each sheet; date; and sheet title and number and revision dates (if applicable).

4. Other - north arrow, graphic scale, a legend defining signs and symbols used on the plan and not otherwise explained; revision date chart; location of ground water borings and the soil profile resulting from borings.
5. Plan Graphics - existing conditions screened or lighter with topographic contours shown as dashed lines; and proposed conditions clearly differentiated from the existing conditions by use of heavier or bold lines with topographic contour changes shown in solid lines. The contour lines must correspond to known elevations on existing benchmarks and to the existing and proposed grades of streets.
6. Delineate the following:
  - a) Wetland boundary showing flags numbered to correspond with numbered flags installed at the site; b) Mean Annual High Water boundary; c) 100 year flood boundary; d) the 25, 50 and 100 foot buffers; e) 100-foot inner and 200-foot outer riparian zones; f) trees greater than 8" dbh; g) the erosion control barrier; h) the limit-of-work line or note if the same as the erosion control barrier; i) recorded easements or restrictions on or crossing the property and metes and bounds of proposed conservation restrictions noting the total restricted area; j) streets abutting the project, their grades and the utilities to which connections are proposed, and k) abutting property owners and map and parcel id.
7. Details of following (if applicable):
  - a) Utility Connections; b) Drainage details for any proposed stormwater management system to mitigate stormwater runoff to comply with *Section 5. Performance Standard (2) Increase in Runoff* in the BY-LAW Rules; and c) erosion control barriers.
8. Elevations or sections of buildings, retaining walls or other structures.
9. Landscape Plan or Buffer Zone Enhancement Plan to detail the approach to protect/enhance the minimum 25-foot critical edge along the wetlands.
10. Stamped and Signed Certification by the professional land surveyor, and professional civil engineer (if applicable), and registered landscape architect (if applicable). Need at least 1 original stamped and signed plan and 9 copies.

### **III. Stormwater Management Form**

If applicable, to ensure that proposed stormwater control designs meet DEP's Stormwater Management Policy. (See further explanation on the form WPA Appendix B – Stormwater Management Form.)

### **IV. Drainage Calculations**

If applicable, provide drainage calculations to support system or design features proposed to mitigate impact on the wetlands to comply with *DEP's Stormwater Management Policy* and/or the By-Law Rule in *Section 5. Performance Standards (2) Increase in Runoff*.

**APPENDIX B-2  
CHECKLIST  
COPIES TO BE FILED**

<b><u>ITEMS</u></b>	<b>NUMBER OF COPIES</b>	
	<b><u>TO TOWN</u></b>	<b><u>TO STATE</u></b>
1. Notice of Intent/supporting information	10	1
2. NOI - Supp. Form for Riverfront Area	10	1
3. Plan/s	10	1
4. Stormwater Management Form (if required)	10	1
5. Drainage Calculations (if required)	4	1
6. Wetlands Filing Fee Calculations Worksheet (ACT)	10	1
7. NOI Fee Transmittal Form (ACT)	10	1
7 a. By-Law Fee Transmittal Form	10	NA
8. Certified List of Abutters (copy)	10	1
9. Abutters Notification	10	1
10. Abutters Affidavit of Service	10	1
11. Legal Notice Charge Authorization (Signed)	1	NA
12. <u>Fees Submitted</u>		
To "Town of Lexington" (By-Law)	check	----
To "Town of Lexington" (under the ACT)	check	copy**
To "Commonwealth of Massachusetts" (ACT)	copy	check**

\*\* Fee calculated and transmitted as detailed on the DEP WPA Appendix A – Wetland Fee Transmittal Form. The State Fee Check with copy of Fee Transmittal Form shall be mailed to Department of Environmental Protection, Box 4062, Boston, MA 02211. Completed Notice of Intent Applications/Forms (however, not the state fee check) for Lexington shall be certified mailed or hand delivered to the DEP Northeast Regional Office, 205B Lowell Street, Wilmington, MA 01887.

**APPENDIX B-3**  
**NOTICE OF INTENT**  
**FILING FEES and TRANSMITTAL FORM**

**Rules:**

1. These fees are in addition to the fees paid pursuant to The Wetlands Protection Act, M.G.L. c. 131, s. 40.
2. All Requests and Notices filed pursuant to Lexington Wetland Protection Code, c. 130 shall be accompanied by a filing fee, the amount to be determined by fees adopted by the Lexington Conservation Commission, and a brief description indicating how the applicant calculated the fee.
3. Whenever the Conservation Commission determines that an inadequate fee has been paid, the time period for the Conservation Commission to act shall be stayed until the balance of the fee is paid.
4. If any of the activities are in a Riverfront Area in addition to another Resource Area or Buffer Zone, the fee per activity should be multiplied by 1.5 and then added to the subtotal amount (or add 50% to total fee).
5. Town Projects are exempt from Wetland Protection Code Fees.

**Fee Schedule:**

<u>\$</u>	<u>NO./Area</u>	<u>Category</u>
_____	_____	<u>Minor Project/Accessory Use &lt;500 s.f.</u> - \$200, plus \$30 microfilm and scanning fee(house addition, tennis court, swimming pool, utility work, etc.)
_____	_____	<u>Minor Project/Accessory Use &gt;500 s.f.</u> - \$400, plus \$60 microfilm and scanning fee(house addition, tennis court, swimming pool, utility work, etc.)
_____	_____	<u>Drain connection to existing storm drain system</u> - \$750, plus \$100 microfilm and scanning fee
_____	_____	<u>Single Family Dwelling</u> - \$800, plus \$125 microfilm and scanning fees, plus all applicable fees listed below (*)
_____	_____	<u>Subdivisions road and utilities only</u> - \$800, plus \$125 microfilm and scanning fees, plus all applicable fees listed below (*)
_____	_____	<u>Multiple dwelling structures</u> - \$800, plus \$125 microfilm and scanning fees, plus \$100 per unit located within any Resource Area or Buffer Zone, plus all applicable fees listed below (*)
_____	_____	<u>Each subdivision roadway, other roadway, or non single-family dwelling driveway, and all associated drainage structures, utilities, grading, curbing, landscaping, and other associated work exclusive</u>

of dwellings or buildings - \$800, plus \$125 micro film and scanning fee, plus all applicable fees listed below (\*)

Commercial, industrial, and institutional projects:

a. Major (site work or construction = to or > 500 s.f.)  
\$1,500, plus \$250 microfilm and scanning fees, plus all applicable fees listed below (\*)

b. Minor (site work or construction < 500 s.f.)  
\$500, plus \$75 microfilm and scanning fee, plus all applicable fees listed below (\*)

\*Boundary delineations for any resource area

\$1.00 per linear foot of Resource Area boundary, not to exceed \$200 for activities associated with single-family house or \$1,500 for all other activities.

\*Work (temporary or permanent) within the Buffer Zone of a Resource Area - \$.25 per square foot of Buffer Zone within 25 feet of a Resource Area temporarily or permanently altered and/or within 50 feet of a Resource Area permanently altered with a structure

\*Work (temporary or permanent) within Land Subject to Flooding (Bordering or Isolated) - \$.25 per square foot of Land Subject to Flooding temporarily or permanently altered

\*Work (temporary or permanent) in following Resource Areas: Freshwater Wetland, Wet Meadow, Bog, Swamp, Marsh, Creek, River, Stream, Pond, Lake, Land Under Water, or Bank - \$.50 per square foot of Resource Area temporarily or permanently altered

\*Work (temporary or permanent) in Vernal Pool or it's Buffer Zone

a. \$.50 per square foot of Vernal Pool temporarily or permanently altered

b. \$.25 per square foot of Vernal Pool Buffer Zone temporarily or permanently altered

Order of Conditions Extensions or Amendments

a. Residential Projects – 25% of original filing fee: not less than \$100.

b. Commercial, Industrial, Institutional, Non-Residential –25% of original filing fee: not less than \$300.

Emergency Certificate - \$100

**TOTAL**

Fees Adopted 7/21/09

**Note:** These fees are in addition to the fees paid under M.G.L. Ch. 131, s.40 (ACT).



APPENDIX B-4 (Remove)

ABUTTER'S NOTIFICATION MODEL (Remove)

**Notification to Abutters Under the  
Massachusetts Wetlands Protection Act  
and  
Lexington Wetland Protection Code**

In accordance with the second paragraph of Massachusetts General Laws Chapter 131, Section 40, and Section 130-3 of the Code of the Town of Lexington, you are hereby notified of the following:

The Conservation Commission will hold a public hearing in the Parker Room formerly known as Room G-15, Town Office Building, 1625 Massachusetts Avenue, Lexington, on Day of Week, Month, Day, Year, at 7:00 pm in accordance with the provisions of the Mass. Wetlands Protection Act (M.G.L. Ch. 131, s. 40, as amended) and the Lexington Wetland Protection Code (Ch. 130; as Amended), for a Notice of Intent filed by applicant, for project description at project address or location, within the 100-foot Buffer Zone and/or any resource areas, on Assessor's Property Map(s) #     , Lot(s) #     . Plans are available for inspection in Room G-8, Town Office Building weekdays from 8:30 a.m. to 4:30 p.m. and any other location - may be the project engineer's office. If this hearing is not closed, it will be continued to a date requested by the applicant without further abutter notification.

For more information call the applicant at phone number or the Lexington Conservation Commission at 781 862-0500, x226 or the DEP Northeast Regional Office, 617-654-6500.

NOTE: Notice of the Public Hearing will be published at least five (5) days in advance in the Lexington Minuteman (or The Globe, if necessary) and will be posted not less than 48 hours in advance of the public hearing in the Lexington Town Hall.

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This format is available in Microsoft Word. For a copy on disk bring a disk to the Conservation Office.

For your information in completing your Notification, the meeting information for your hearing is:

Date:

Time:

**APPENDIX B-5**

**AFFIDAVIT OF SERVICE**

Under the Massachusetts Wetlands Protection Act and Lexington Wetland Protection Code, I, \_\_\_\_\_, hereby certify under the pains and penalties of perjury that on \_\_\_\_\_, I mailed a "Notification to Abutters" in compliance with the second paragraph of Massachusetts General Laws, Chapter 131, s.40, the DEP Guide to Abutter Notification dated April 8, 1994, and Section 130-3 of the Code of the Town of Lexington, in connection with the following matter:

A Notice of Intent filed under the Massachusetts Wetlands Protection Act and the Lexington Wetland Protection Code by \_\_\_\_\_ with the Lexington Conservation Commission on \_\_\_\_\_ for property located at - \_\_\_\_\_.

This form of the notification, and a list of the abutters and their addresses to whom it was given, are attached to this Affidavit of Service.

\_\_\_\_\_  
Name

\_\_\_\_\_  
Date

**APPENDIX B-6**

**LEGAL NOTICE CHARGE AUTHORIZATION**

DATE: \_\_\_\_\_

TO: GateHouse Media New England/Community Newspaper Company  
LEGAL NOTICE DEPARTMENT

I HEREBY AUTHORIZE GateHouse Media New England/Community Newspaper  
Company to bill me directly for the legal notice published in the Lexington Minuteman  
on \_\_\_\_\_ for a public hearing with the Lexington Conservation  
Commission on \_\_\_\_\_ for property at:

\_\_\_\_\_.

SIGNATURE: \_\_\_\_\_

Please print where to send bill:

Name: \_\_\_\_\_

Street Address: \_\_\_\_\_

City/Town: \_\_\_\_\_

State: \_\_\_\_\_ Zip Code \_\_\_\_\_

Day-time Telephone Number \_\_\_\_\_